

Internal Revenue Service

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Person To Contact:
, ID No.
Telephone Number:

Refer Reply To:
CC:PSI:B03
PLR-103651-13
Date:
May 07, 2013

LEGEND

X =

State =

Date =

1

Date =

2

Date =

3

Dear :

This responds to a letter dated December 11, 2012, and subsequent correspondence, submitted on behalf of X, requesting a ruling under § 301.7701-3(c)(1)(iv) of the Procedure and Administration Regulations. Specifically, your letter requests consent to change X's classification from an association taxable as a corporation to a partnership effective Date 3.

FACTS

The information submitted states that on Date 1, X was formed as a limited liability company under the laws of State. At the time of formation, X had a single owner and was treated as a disregarded entity for federal tax purposes. Effective Date 2, X elected to be an S corporation. On Date 3, a foreign entity acquired an ownership interest in X thereby terminating X's S corporation election. In addition, effective Date 3, new owners, including the foreign entity, acquired more than fifty percent of the ownership interests in X.

LAW AND ANALYSIS

Section 301.7701-3(a) provides that a business entity that is not classified as a corporation under § 301.7701-2(b)(1), (3), (4), (5), (6), (7), or (8) (an eligible entity) can elect its classification for federal tax purposes. Elections are necessary only when an eligible entity does not want to be classified under the default classification or when an eligible entity chooses to change its classification.

Section 301.7701-3(b)(1) provides that, except as provided in § 301.7701-3(b)(3), unless the entity elects otherwise, a domestic eligible entity is: (i) a partnership if it has two or more members; or (ii) disregarded as an entity separate from its owner if it has a single owner.

Section 301.7701-3(c)(1)(i) provides that, except as provided in § 301.7701-3(c)(1)(iv) and (v), an eligible entity may elect to be classified other than as provided under § 301.7701-3(b), or to change its classification, by filing Form 8832 with the appropriate service center. Under § 301.7701-3(c)(1)(iii), this election will be effective on the date specified by the entity on Form 8832 or on the date filed if no such date is specified. The date specified on Form 8832 cannot be more than 75 days prior to the date on which the election is filed.

Section 301.7701-3(c)(1)(iv) provides that, if an eligible entity makes an election under § 301.7701-3(c)(1)(i) to change its classification, the entity cannot change its classification by election again during the sixty months succeeding the effective date of the election. However, the Commissioner may permit the entity to change its classification by election within the sixty months if more than fifty percent of the ownership interests in the entity as of the effective date of the subsequent election are owned by persons that did not own any interests in the entity on the filing date or on the effective date of the entity's prior election.

Section 301.7701-3(c)(1)(v)(C) provides that an eligible entity that timely elects to be an S corporation under section 1362(a)(1) is treated as having made an election under § 301.7701-3 to be classified as an association, provided that (as of the effective date of the election under section 1362(a)(1) the entity meets all other requirements to qualify as a small business corporation under section 1361(b). Subject to § 301.7701-3(c)(1)(iv), the deemed election to be classified as an association will apply as of the effective date of the S corporation election and will remain in effect until the entity makes a valid election, under § 301.7701-3(c)(1)(i), to be classified as other than an association.

CONCLUSION

Based solely on the information submitted and the representations made, we consent to X changing its classification to a partnership for federal tax purposes effective Date 3 under § 301.7701-3(c)(1)(iv). X should file a Form 8832, Entity Classification Election, with the appropriate service center with a copy of this letter attached.

Except as expressly provided herein, we express or imply no opinion concerning the tax consequences of any transaction or item discussed or referenced in this letter. Specifically, we express or imply no opinion whether X is otherwise eligible to make the election.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

The ruling contained in this letter is based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the ruling request, it is subject to verification on examination.

In accordance with a power of attorney on file with this office, we are sending a copy of this letter to your authorized representative.

Sincerely,

James A. Quinn
Senior Counsel, Branch 3
Office of the Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosures (2):
Copy of this letter
Copy for § 6110 purposes

cc: